

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6949**

**BILL NUMBER:** HB 1120

**NOTE PREPARED:** Jan 13, 2010

**BILL AMENDED:** Jan 7, 2010

**SUBJECT:** Employee Defined Classification.

**FIRST AUTHOR:** Rep. Niezgodski

**FIRST SPONSOR:** Sen. Boots

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that an individual performing services for a contractor or subcontractor on a construction project is considered to be an employee of the contractor or subcontractor, with certain exceptions.

This bill provides for investigations of the employment relationship between an individual and a contractor or subcontractor by the Department of Labor, for certain procedures to be followed in investigations, and for various civil penalties to be assessed by the Department of Labor for the failure to properly classify individuals as employees.

The bill provides that certain information pertaining to employee classification shared among certain state agencies is confidential.

The bill prohibits the awarding of contracts for certain public work projects to a contractor or subcontractor for four years after the contractor or subcontractor is found to have committed certain recurring improper classifications.

**Effective Date:** July 1, 2010.

**Explanation of State Expenditures:** (Revised) The impact on the Department of Labor will depend on the number of complaints filed. The Department of Labor would also be able to issue cease work orders for projects for which the contractor has misclassified employees. The bill's requirements represent an additional workload on the agency outside of the agency's routine administrative functions, and existing staffing and resource levels, if currently being used to capacity, may be insufficient for full implementation. The

additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions. The Department of Labor reports that they would need four additional investigators at \$45,855, an assistant at \$36,800, an administrative law judge, and a court reporter two days a month at \$27,300, a part-time attorney from the Attorney General's office to prosecute cases three days a week, and about \$33,800 in miscellaneous costs. The increase in cost would be about \$321,320 annually.

The bill provides for the Department of Labor, the Department of Workforce Development, and the Worker's Compensation Board to develop a joint computer system in order to share information on employee classification information by January 1, 2011. There could be some additional cost with developing the system to share information. Revenue from the Employee Classification Fund could be used to develop the system.

The bill provides that a contractor or subcontractor that has violated the employee classification law can not do business with the state for four years and should not have a significant impact on the state.

**Explanation of State Revenues:** *Independent Contractor Fee:* The bill raises the filing fee collected by the Department of State Revenue for an independent contractor from \$5 to \$25. The bill would increase the revenue for the Independent Contractor Information Account in the state General Fund. The \$5 filing fee has generated between \$32,700 and \$39,380 over the last five years. Increasing the fee to \$25 would raise between \$163,500 and \$196,900.

*Employee Classification Fund:* The bill establishes the nonreverting Employee Classification Fund for the purposes of administering these provisions, investigating contractors and agents of contractors, and for funding other expenses incurred in carrying out the duties of the department regarding employee classification. The fund consists of civil penalties collected for employee classification violations.

Civil penalties of between \$500 and \$5,000 per employee may be assessed by the Department of Labor on employers who improperly classify employees and refuse to correct the problem. The revenue will depend on the number of violations found by the department.

*Worker's Compensation Supplemental Administrative Fund:* The Worker's Compensation Board can assess a civil penalty of \$500 per employee if the employer they notify as having improperly classified employees as independent contractors has not corrected the situation within seven business days. The impact would depend on the number of notices the board gives.

*Independent Contractor Information Account:* An independent contractor that fails to file a statement with the Department of Labor that includes the independent contractor's name, address, phone number, and Social Security number and the Social Security number, federal employer ID, or taxpayer ID of each person with whom the independent contractor has contracted can be assessed a civil penalty of \$500, which is to be deposited into the Independent Contractor Information Account.

#### **Explanation of Local Expenditures:**

#### **Explanation of Local Revenues:**

**State Agencies Affected:** Department of Labor; Department of Workforce Development; Worker's

Compensation Board., Department of State Revenue.

**Local Agencies Affected:**

**Information Sources:** Ambat Babu, Department of Labor, 317-232-2589.

**Fiscal Analyst:** Chuck Mayfield, 317-232-4825.